

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Volha Shauchenka	Team: APU	CCRB Case #: 201803342	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/02/2017 10:30 PM	Location of Incident: § 87(2)(b)	Precinct: 25	18 Mo. SOL 1/2/2019	EO SOL 1/2/2019	
Date/Time CV Reported Thu, 04/26/2018 12:13 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 04/26/2018 12:13 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Baresi	03106	951522	PSA 5
2. POM Artur Espenberg	24642	952713	PSA 5
3. POF Sheila Ramos	24844	953299	PSA 5

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joshua Faranda	31043	938461	PSA 5
2. SGT Nathaniel Herman	377	936749	PSA 5

Officer(s)	Allegation	Investigator Recommendation
A.POM Artur Espenberg	Abuse: Police Officer Artur Espenberg entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.POF Sheila Ramos	Abuse: Police Officer Sheila Ramos entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
C.POM Anthony Baresi	Abuse: Police Officer Anthony Baresi entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
D.POM Artur Espenberg	Abuse: Police Officer Artur Espenberg threatened to arrest § 87(2)(b)	§ 87(2)(b)
E.POM Artur Espenberg	Abuse: Police Officer Artur Espenberg threatened to arrest § 87(2)(b)	§ 87(2)(b)
F.POM Anthony Baresi	Force: Police Officer Anthony Baresi used physical force against § 87(2)(b)	§ 87(2)(b)
G.POM Artur Espenberg	Discourtesy: Police Officer Artur Espenberg spoke discourteously to § 87(2)(b)	§ 87(2)(b)
H.POM Artur Espenberg	Abuse: Police Officer Artur Espenberg threatened to arrest § 87(2)(b)	§ 87(2)(b)
I.POM Artur Espenberg	Force: Police Officer Artur Espenberg used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On April 26, 2018, § 87(2)(b) § 87(2)(b) filed this complaint on behalf of herself and her children, § 87(2)(b) and § 87(2)(b) via the CCRB online complaint submission form.

On July 2, 2017, at approximately 10:30 p.m., PO Artur Epenberg, PO Sheila Ramos, and PO Anthony Baresi of PSA 5 entered § 87(2)(b) § 87(2)(b) in Manhattan (**Allegations A, B and C: Abuse of Authority**, § 87(2)(g) PO Espenberg allegedly threatened to arrest § 87(2)(b) and § 87(2)(b) (**Allegations D and E: Abuse of Authority**, § 87(2)(g) PO Baresi allegedly pulled § 87(2)(b) out of the apartment and she hit the door of the adjacent one (**Allegation F: Force**, § 87(2)(g) PO Espenberg allegedly told § 87(2)(b) “You better chill the fuck out before we arrest you,” and pushed him against the wall (**Allegation G: Discourtesy; Allegation H: Abuse of Authority; Allegation I: Force**, § 87(2)(g)

§ 87(2)(b) recorded two video clips on his cell phone, which he posted on Snapchat and streamed via Facebook Live [BR 05, 10, *Originals*].

Findings and Recommendations

Allegation (A): Abuse of Authority: Police Officer Artur Espenberg entered § 87(2)(b) in Manhattan.

Allegation (B): Abuse of Authority: Police Officer Sheila Ramos entered § 87(2)(b) in Manhattan.

Allegation (C): Abuse of Authority: Police Officer Anthony Baresi entered § 87(2)(b) in Manhattan.

The following facts are undisputed: On July 2, 2017, at approximately 10:00 p.m., a gang assault involving multiple civilians and victims took place in front of § 87(2)(b) in Manhattan. PO Espenberg, PO Ramos, PO Baresi, and PO Faranda along with multiple additional officers and medical personnel responded to the location. Shortly after arriving on the scene, the subject officers observed § 87(2)(b) and his friend § 87(2)(b) walk § 87(2)(b) and followed them into the building. § 87(2)(b)

In her verified statement to the CCRB, § 87(2)(b) stated that when the assault took place she was in front of her building at § 87(2)(b) while her children § 87(2)(b) § 87(2)(b) and § 87(2)(b) were playing in the park [BR 08]. As they were walking towards their building, § 87(2)(b) observed her other son § 87(2)(b) and § 87(2)(b) walk towards them from the side of their building. They had just returned from their friend’s house in the Bronx. All of them entered § 87(2)(b)’s apartment where § 87(2)(b)’s additional child, § 87(2)(b) and their dog were. Approximately five minutes later, the subject officers knocked on their door and § 87(2)(b) cracked it open. § 87(2)(b) learned that officers were there to talk to § 87(2)(b) since he had been identified as the perpetrator involved in the assault that had just taken place. Both § 87(2)(b) and § 87(2)(b) stood by the door and § 87(2)(b) informed the officers that § 87(2)(b) and § 87(2)(b) had just returned from the Bronx, but the officers wanted her to open the door. She refused to do so unless the officers had a warrant and requested one to be shown to her. PO Baresi replied that they did not need a warrant and a back-and-forth exchange

ensued. Another officer requested § 87(2)(b) and § 87(2)(b) to come out and talk to them one-on-one, but § 87(2)(b) refused, reiterating the officers needed a warrant. After an approximately 30-minute long conversation, § 87(2)(b) attempted to close the door and an officer who she described as a white male, 5'8" – 5'9" tall, heavy set with tattoos on both arms, in his 40s, wearing a blue baseball cap, identified by the investigation as PO Espenberg, pushed it open. § 87(2)(b) stepped back as PO Baresi, PO Espenberg, and PO Ramos, entered the hallway of the apartment. Two other officers who § 87(2)(b) could not describe remained on the floor landing. Neither § 87(2)(b) nor § 87(2)(b) verbally invited the officers in nor did § 87(2)(b) step aside on her own before the officers entered. § 87(2)(b) stepped in front of the officers blocking their way further into the apartment while § 87(2)(b) stood behind her. Both of them continued asking the officers for a warrant, but none of them responded. § 87(2)(b) was consistent in her preceding statements to the CCRB in regards to this allegation [BR 01, 03].

§ 87(2)(g)

§ 87(2)(b) She stated that § 87(2)(b) and § 87(2)(b) returned from the Bronx approximately 20 minutes after the fight and § 87(2)(b) and § 87(2)(b) briefly stepped out to a deli. When § 87(2)(b) opened the door, PO Espenberg moved forward and she felt the door being pushed open. § 87(2)(b) stepped back and "froze" since she did not know what to do. § 87(2)(b) stepped in front of her and attempted to close the door for five to 10 seconds while the officer was applying pressure to the door from outside. No words were exchanged at this point and eventually the door opened and PO Espenberg stepped in, followed by PO Ramos, PO Baresi and PO Faranda. § 87(2)(b) added that after that, PO Espenberg implied that he was let in, and § 87(2)(b) contradicted him. § 87(2)(b) was consistent in her preceding statement to the CCRB regarding this allegation [BR 06].

§ 87(2)(b)'s account of this part of the incident was similar to § 87(2)(b)'s and § 87(2)(b)'s [BR 07]. Although he was in the living room behind the wall when the officers attempted to enter, he looked out and observed the front door opening wider and wider. Since the incident progressed fast, § 87(2)(b) did not recall and see how exactly the officers entered the apartment. Next time he looked out from behind the wall, he observed PO Espenberg with his foot in the apartment and one in the hallway. § 87(2)(b) came into the hallway, started recording the incident on his cell phone and explained to the officers he was in the Bronx, but they insisted he had to go to the stationhouse with them. PO Espenberg moved further into the apartment and grabbed § 87(2)(b) by his arm, but § 87(2)(b) pushed § 87(2)(b) back saying the officers were not taking him. Eventually, PO Espenberg and PO Ramos entered further into the apartment. § 87(2)(b) was consistent in his preceding statement to the CCRB in regards to this allegation [BR 04].

In her unverified phone statement, § 87(2)(b) stated that she was outside when the officers entered and when she got to the apartment, she observed five or six of them in the apartment engaged in a back-and-forth conversation with § 87(2)(b) who was screaming the officers did not have a warrant [BR 11].

None of the civilians confirmed § 87(2)(b)'s account that § 87(2)(b) § 87(2)(b) was present when the allegations took place, therefore he was not contacted. No statement was obtained from § 87(2)(b) either since § 87(2)(b) did not wish the undersigned to contact him due to the fact that he is a minor and has a mental disability. § 87(2)(b) was uncooperative with the investigation [BR 28].

In her testimony to the CCRB, PO Ramos stated that upon arrival on the scene, she observed five victims, one of whom was seriously injured [BR 15]. She also observed some garbage scattered around, a fan and a scooter. One of the victims, she did not recall who, informed PO Ramos that the perpetrators were known members of the § 87(2)(b), § 87(2)(e), § 87(2)(f) § 87(2)(b). They were also personally known to PO Ramos as § 87(2)(b) and § 87(2)(b). However, PO Ramos had no knowledge of their place of residence nor was she aware if either of them had been arrested for any violent crimes. When § 87(2)(b) and § 87(2)(b) were observed coming by one of the ambulances standing on the side of § 87(2)(b), one of the victims, who PO Ramos did not recall either, pointed at § 87(2)(b) and § 87(2)(b) and said, “That’s them.” The victim explained that § 87(2)(b) assaulted her family by hitting them with scooters and hit her father with a fan on the head. PO Ramos and her partners discussed amongst themselves that they would follow § 87(2)(b) and § 87(2)(b) knock on the apartment they would enter, explain to them they had a complaint against them and that they had to go with the officers for questioning. The officers followed § 87(2)(b) and § 87(2)(b) into § 87(2)(b) and PO Ramos observed § 87(2)(b) and § 87(2)(b) enter § 87(2)(b). The officers did not attempt to establish contact with § 87(2)(b) and § 87(2)(b) on their way.

When § 87(2)(b) opened the door all the way in, PO Ramos observed her, § 87(2)(b) and § 87(2)(b) standing in a small hallway by the door. As soon as the officers explained the reason for their arrival, § 87(2)(b) started cursing at the officers and punching the walls. Due to § 87(2)(b)’s behavior, PO Ramos concluded she could not talk to her and asked § 87(2)(b) who was holding the door, if she could speak to her. § 87(2)(b) replied, “Yes, what’s going on?” or “Yes, come talk to me,” as she attempted to calm her mother. Therefore, PO Ramos stepped into the apartment since she was certain § 87(2)(b) could not come out and talk to her as she was attempting to calm her mother down. PO Ramos did not recall if she asked § 87(2)(b) if she could come in prior to that and noted that no one told the officers to leave. PO Ramos did not ask § 87(2)(b) for permission to enter because it was impossible to talk to her and the officers just “gave her courtesy” of not arresting her for her behavior. PO Ramos was not certain if any officers entered before or after her into the apartment. Eventually, § 87(2)(b) and § 87(2)(b) were handcuffed in the apartment and as per PO Ramos, they were considered under arrest as soon as they were in handcuffs. PO Ramos had no suspicion that § 87(2)(b) and § 87(2)(b) were armed at the time.

PO Baresi’s account of the incident and the circumstances preceding the entry was generally consistent with PO Ramos apart from the following details [BR 16]. He stated that PO Ramos spoke to the victims in Spanish since they were more comfortable speaking it and at some point informed him that one of the them identified § 87(2)(b) and § 87(2)(b) as the perpetrators. However, PO Baresi was unaware how the victims specified it was them and noted neither speaks Spanish nor understands it. PO Baresi was unaware if § 87(2)(b) and § 87(2)(b) were pointed out by the victim when they were observed entering the building. When following § 87(2)(b) and § 87(2)(b) the officers had no discussion about their plan of action but in PO Baresi’s mind they were going to arrest them since they had just been identified as perpetrators of an assault by the victim. When the door was opened by § 87(2)(b) PO Baresi observed § 87(2)(b) and § 87(2)(b) inside. The officers informed them they were under arrest and they responded something to the effect, “Fuck you. I’m not going to jail. Get out of my apartment.” PO Baresi stated he did not recall if those statements were made prior to or after the

officers' entry but explained the officers were allowed into the apartment because § 87(2)(b) opened the door further in and told them to come in. PO Baresi did not recall who entered the apartment first and stated that none of the officers asked if they could come in. Eventually, PO Baresi, PO Espenberg and PO Ramos stood in the hallway by the door and no one went further into the apartment. Apart from the § 87(2)(b) and § 87(2)(b) making the above-mentioned statements, none of the civilians inside the apartment objected to the officers entry. While PO Baresi was consistent in describing § 87(2)(b)'s demeanor and actions, he did not recall any of the statements she made.

PO Espenberg's account of the incident was largely consistent with PO Ramos' apart from the following [BR 17]. He stated he understands and speaks some Spanish and acknowledged that he also spoke to some of the victims but had a language barrier. When § 87(2)(b) and § 87(2)(b) were seen coming into the building, one of the victims pointed at the them and said in English, "That's them." PO Espenberg also believed that § 87(2)(b) and § 87(2)(b) were identified by name but did not recall to which officer. Although the officers had no discussion amongst themselves, PO Espenberg knew that the officers went to arrest them since they had just been pointed out by the victim. When § 87(2)(b) and § 87(2)(b) were entering the building, officers told them to stop multiple times and they picked their pace up. According to PO Espenberg, § 87(2)(b) opened the door and immediately told them to come in. The officers did not have an opportunity to explain why they were there and PO Espenberg believed that § 87(2)(b) knew that the situation was serious based on the officers' prior interaction with § 87(2)(b). None of the officers asked § 87(2)(b) if they can come in and PO Espenberg did not recall if they had any conversation with § 87(2)(b) prior to the entry. All three officers entered the apartment and stood in the general vicinity of the door. PO Espenberg provided the same account of § 87(2)(b)'s actions and demeanor adding that she engaged in a physical altercation with § 87(2)(b) after the officers entered and said, "Why the fuck did you let them in?" § 87(2)(b) also approached the officers very closely and made a motion as if she was going to hit PO Espenberg.

PO Faranda provided a similar account of the incident to all the officers mentioned above [BR 18]. He indicated that he, Sgt. Nathaniel Herman and PO Ilbey Aykac of the same command responded to the scene as backup. PO Baresi and PO Ramos related to Sgt. Herman that the perpetrators had been identified as § 87(2)(b) and § 87(2)(b) by name. PO Faranda was also familiar with them and knew that § 87(2)(b) lived in § 87(2)(b). PO Faranda did not personally speak to any victims. When § 87(2)(b) and § 87(2)(b) were observed entering § 87(2)(b), no one from the victims pointed them out. PO Faranda, Sgt. Herman, PO Ramos, PO Baresi and PO Espenberg all followed § 87(2)(b) and § 87(2)(b) and PO Aykac might have stayed outside the building. PO Faranda explained that he followed § 87(2)(b) and § 87(2)(b) to assist the rest of the officers. After PO Baresi and PO Ramos knocked on the door, § 87(2)(b) opened it and shortly thereafter invited them inside. While PO Faranda did not recall the contents of their conversation, he believed that § 87(2)(b) invited the officers inside verbally. PO Baresi and PO Ramos entered the apartment and PO Faranda stood in the threshold of the doorway. PO Faranda did not recall anyone object to the officers' entry, but remembered that § 87(2)(b) was upset and screaming. He did not recall any statements she made. Since PO Faranda acted as a back-up officer and his entry into the apartment was minimal, an entry allegation is not being pleaded against him.

Sgt. Herman had no recollection of the incident [BR 09].



§ 87(2)(b) ACE 1a.mp4

[BR 20]

Clip of original video from IA66



§ 87(2)(b) ACE 1b.mp4

[BR 21]

Clip of original video from IA43

The beginning of the video located in IA66 depicts PO Espenberg standing inside the apartment past the front entrance in the center of the frame [BR 20]. PO Baresi is standing behind him to his right side. § 87(2)(b) who is not in the camera view, asks the officers why they are in his house and PO Espenberg make an inaudible statement that ends with the word “arrested.” § 87(2)(b) and § 87(2)(b) are standing within inches of PO Espenberg by the door and at 4 seconds, § 87(2)(b) starts pushing PO Espenberg out with her hands on his stomach. PO Espenberg holds himself by the wall and door and states, “You’re under arrest,” pointing his finger towards the camera. The video has no time stamp and was recorded from Snapchat social media platform by § 87(2)(b)

Video located in IA43 starts with a cell phone screen mirror and § 87(2)(b) s caption, “COPS TRYNA SNAP ME AND BRO FOR SOMETHING DO WE LITERALLY JUST GOT BACK FROM THE BRONX FREE US!” A dog is barking during the entire video and parts of the conversations are inaudible. At 7 seconds, PO Espenberg, PO Ramos, PO Baresi and PO Faranda are seen inside the apartment by the door [BR 21]. PO Espenberg and PO Ramos are standing further in while PO Baresi and PO Faranda are behind them. § 87(2)(b) is standing between the officers and § 87(2)(b) talking to her and holding her by her arms. At the same time, § 87(2)(b) says the officers do not have a warrant and he did not do anything. At 8 seconds, PO Baresi says, “You are not under arrest, you just have to talk to us.” § 87(2)(b) is talking to § 87(2)(b) for approximately 20 seconds and at 31 second, § 87(2)(b) is seen banging on the wall. During this time, § 87(2)(b) who is not in the camera view, continues to say that he did not do anything, the officers do not have a warrant and he was going to file a law suit. At 37 seconds, PO Espenberg tells § 87(2)(b) “If you open the door we are allowed to come in. You opened the door.” § 87(2)(b) replies that the officers let themselves in. At 40 seconds, PO Espenberg continues, “That’s not a warrant. We knocked. We knocked. They are under arrest.” § 87(2)(b) and § 87(2)(b) then talk to PO Espenberg and PO Ramos but their conversations are inaudible because § 87(2)(b) points the camera at himself reiterating he did not do anything and had just returned from the Bronx with § 87(2)(b) During this video, PO Faranda is standing slightly past the threshold of the apartment.

According to NYPD Event #§ 87(2)(b) starting at 9:54 p.m., multiple individuals called to report a fight that involved throwing trash, chairs, scooters, beating with bottles, and people “stomping” on someone [NYPD 02]. It was also reported that one individual was lying on the ground and bleeding.

§ 87(2)(b) and § 87(2)(b) were arrested at 10:40 p.m. inside § 87(2)(b) [NYPD 07]. There were no other related arrests generated.

According to Payton v. New York, 445 U.S. 573, absent exigent circumstances, officers need an arrest warrant to effect an arrest in someone’s residence [BR 22]. Based on People v. McBride, 14 N.Y.3d 440, the following factors should be considered in determining whether exigency at time of the arrest is at hand: (i) the gravity of crime with which a suspect will be charged, (ii) whether the suspect is reasonably believed to be armed, (iii) whether there is clear probable cause to arrest an individual, (iv) strong reason to believe that the suspect is within premises to be entered, (v) likelihood of the prisoner’s escape, (vi) and peaceful circumstances of entry [BR 23]. According to People v. Lott, 102 A.D. 2d 506, “rather than obtaining a warrant of any kind” the officers followed the suspect of a robbery who allegedly had a gun into his room and arrested him [BR 29]. The court ruled that officers could not create exigency by their mere presence on the premises. As per Georgia v. Randolph, 547 U.S. 103, consent is another exception to the arrest warrant requirement. However, in this case officers were not allowed to execute a warrantless entry pursuant to a third-party consent because the defendant was present and was explicitly objecting to their entry [BR 24].

§ 87(2)(g), § 87(2)(b)

[REDACTED]

Allegation (D): Abuse of Authority: Police Officer Artur Espenberg threatened to arrest

§ 87(2)(b)

Allegation (E): Abuse of Authority: Police Officer Artur Espenberg threatened to arrest

§ 87(2)(b)

§ 87(2)(b) alleged that a few minutes after the entry, PO Espenberg told § 87(2)(b) that if he did not go nicely, he would take “all of them” [BR 09]. Although PO Espenberg did not specify who he was referring to, § 87(2)(b) believed he was referring to the entire family. At that time, § 87(2)(b) and § 87(2)(b) were in the hallway as well. § 87(2)(b) attempted to calm § 87(2)(b) and mediate the situation. § 87(2)(b) was consistent in her preceding statement to the CCRB in regards to this allegation [BR 06].

Neither § 87(2)(b) nor Mrs. § 87(2)(b) made this allegation [BR 07, 08].

Video recording in IA43 depicts PO Espenberg saying, “If you don’t come nicely, we unfortunately, will grab everybody else and we’re gonna go,” at 1:23 minute [BR 21]. It is unclear who this statement was made towards since no one is in the camera view besides § 87(2)(b) and § 87(2)(b).

In his CCRB testimony, PO Espenberg explained that § 87(2)(b) physically threatened him and PO Ramos and engaged in a physical fight with § 87(2)(b) [BR 17].

The rest of the officers interviewed did not recall anyone threaten the rest of § 87(2)(b)s family members with arrest but all were consistent in describing § 87(2)(b) as yelling [BR 15, 16, 18]. However, none indicated that § 87(2)(b) and § 87(2)(b) engaged in a physical fight.

§ 87(2)(g)

Allegation (F): Force: PO Anthony Baresi used force towards § 87(2)(b)

§ 87(2)(b) alleged that shortly after the first three officers entered the apartment, § 87(2)(b) and the officers started yelling at each other [BR 08]. § 87(2)(b) told the officers to leave the apartment and PO Baresi, who she described as a white male, 5’6” – 5’8” tall, medium build, in his 30s, wearing blue jeans, blue T-shirt, and a hat, grabbed her by her arm and pulled her out of the apartment. As a result, her back hit the door of the adjacent apartment located two-three feet away. She did not feel pain nor did she sustain any injuries from it. Two more officers entered the apartment and closed the door behind them. § 87(2)(b) was consistent in her preceding statements to the CCRB in regards to this allegation [BR 01, 03].

While § 87(2)(b) observed an officer walk § 87(2)(b) out of the apartment and holding her by her elbow, he attributed these actions to an officer described as a white male, 5’10” tall, muscular and well build, in his 30s, with black hair, wearing shorts and a shirt [BR 07]. § 87(2)(b) also observed an officer who she described as a white or Hispanic male, 6’1” tall, muscular with facial hair, in his late 20s-30s, wearing a hat, possibly with tattoos or glasses, pull § 87(2)(b) out of the apartment by her arm [BR 09]. Both § 87(2)(b) and

§ 87(2)(b) indicated the subject officer was among the ones who entered the apartment initially, who based on NYPD records and video evidence was determined to be PO Espenberg.

§ 87(2)(b) never observed § 87(2)(b) in the hallway while she was in the building [BR 11, 12].

Both PO Baresi and PO Espenberg denied pulling § 87(2)(b) out or using any force towards her [BR 16, 17]. They denied observing any officers do so. PO Ramos's testimony was consistent with her partners [BR 15]. All three officers maintained that § 87(2)(b) remained in the apartment the entire time.

While PO Faranda denied committing the alleged misconduct or observing any officers do so, he recalled that § 87(2)(b) stepped out of the apartment on her own volition and he accompanied her in the hallway to keep her calm [BR 18].

Video evidence did not depict the alleged misconduct [BR 20, 21].

According to NYPD records, § 87(2)(b)

[REDACTED]
[REDACTED] [NYPD 08].

§ 87(2)(g)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation (G): Discourtesy: PO Artur Espenberg spoke discourteously to § 87(2)(b)

Allegation (H): Abuse of Authority: PO Artur Espenberg threatened to arrest § 87(2)(b)

Allegation (I): Force: PO Artur Espenberg used physical force against § 87(2)(b)

§ 87(2)(b) alleged that after § 87(2)(b) was escorted out of the apartment, § 87(2)(b) who has attention deficit/hyperactivity disorder started running around and screaming the officers were not going to take his brother away [BR 07]. PO Espenberg told § 87(2)(b) "You need to chill the fuck out before we arrest you," or a statement similar in nature using profanity. § 87(2)(b) was inconsistent in describing whether § 87(2)(b) was standing or running when the officer made that statement. § 87(2)(b) informed PO Espenberg that § 87(2)(b) has a disability but he did not react in any manner and pushed § 87(2)(b) against the wall with his front. PO Espenberg held § 87(2)(b) for two-three seconds by pressing on his back and face and released him. § 87(2)(b)'s arms were along his body at the time. § 87(2)(b) was consistent in his preceding statement to the CCRB in regards to this allegation [BR 04].

§ 87(2)(b) provided a similar account of the circumstances surrounding the force allegation but did not mention that the officer used profanity towards § 87(2)(b) or threatened to arrest him [BR 09]. She attributed these actions, however, not to the officer who pulled § 87(2)(b) out and described the subject officer as a white male, 5'8" tall, slim build, 160

pounds, with black hair and some facial hair on his chin, in his late 30s. § 87(2)(b) also stated that § 87(2)(b) was hiding in the bathroom when the alleged misconduct occurred. She informed the officer that § 87(2)(b) suffers from autism, and the officer replied, “It’s not like I’m hurting him.” The officer released § 87(2)(b) in approximately 15 seconds. § 87(2)(b) was consistent in her preceding CCRB statement in her account of this allegation [BR 06].

§ 87(2)(b) testified that she stood in the hallway for approximately 10 minutes until § 87(2)(b) opened the apartment door for her [BR 08]. An argument ensued between § 87(2)(b) and § 87(2)(b) during which she observed an officer who she described as a white male, 5’8” – 5’9” tall, heavy set with tattoos on both arms, in his 40s, wearing a blue baseball hat, identified by the investigation as PO Espenberg, holding § 87(2)(b) by his hands, that were behind his back, and head. § 87(2)(b) asked § 87(2)(b) if she observed what the officer was doing, and she informed him that § 87(2)(b) was mentally ill. The officer smiled, released § 87(2)(b) and said they were just playing. § 87(2)(b) did not recall hearing any officers use any profanity during the incident. § 87(2)(b) was consistent in her preceding statements to the CCRB in regards to these allegations [BR 03].

Video evidence did not depict the alleged misconduct [BR 20, 21].

Although PO Espenberg recalled § 87(2)(b) “bouncing” around the apartment and acknowledged he is familiar with him as well as his mental illness, he denied committing the alleged misconduct or observing and hearing other officers doing so [BR 17]. He testified that § 87(2)(b) was not behaving in a violent manner and the officers did not want to get him involved in the incident. The rest of the officers denied committing the allegations or observing them [BR 15, 16, 18].

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties.
- PO Espenberg has been a member of service for six years and has been a subject in four other CCRB complaints and 14 allegations, of which two were substantiated:

- 201504644 involved substantiated allegations of a refusal to provide name/shield. The Board recommended Formalized Training and the NYPD has not yet imposed discipline.
- 201802028 involved a substantiated allegation of search of a person. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
- 201708992 and 201802028 involved an exonerated force allegation and an unsubstantiated discourtesy allegation pleaded against PO Espenberg.
- 201802028 involved an unsubstantiated threat of arrest allegation against PO Espenberg.
- PO Ramos has been a member of service for six years and has been a subject in two other CCRB complaints, none of which were substantiated. § 87(2)(g)
- PO Baresi has been a member of service for six years and has been a subject in five other CCRB complaints, none of which were substantiated. 201404609, 201410719, 201500513, and 201702367 involved a chokehold, physical force, use of nightstick as club and physical force allegations pleaded against PO Baresi that were closed as unsubstantiated, complainant uncooperative, exonerated and unsubstantiated, respectively.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of November 9, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint [BR 26].
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Squad No.: 8

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
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Squad Leader:	_____ Signature	_____ Print Title & Name	_____ Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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